

MAR 03 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Heinrich Lang, et al

Serial No.: 10/767,669

Filed: 01/29/2004

For: REARVIEW MIRROR ASSEMBLY FOR
MOTOR VEHICLES (As Amended)

Examiner: Ricky D. Shafer

Group No.: 2872

Docket No.: LMX-129 CON

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Response to the PTO Action of 2/04/05

A Revocation and Reappointment of Power of Attorney is filed herewith.

The replacement drawing, so labeled, is submitted as required.

Claims 10 and 13-22 are now pending.

Claim 10 is rejected on the judicially created doctrine of obviousness, which rejection may be overcome with a terminal disclaimer which is herewith filed.

Accordingly, it is believed that claim 10 is now allowable.

Restriction has been required.

- I. Claim 10 is held to be to the invention elected by the original presentation of claims.
- II. Claims 13-15 and 17-23 are held to be directed to an invention "not readable on the elected invention."

The inventions are said to be related as sub-combinations disclosed as usable together. The sub-combinations are said to be distinct if they can be shown to be

separately usable. In the instance case, the Examiner asserts that the mirror assembly of the elected Group I has separate utility as a mirror assembly without the framing having a configured area to engage with the holding arm, the bracket having a configured area and other claimed structural details called for in the claims of Group II.

This holding is respectfully traversed.

MPEP 806.05(d) requires that for restriction between claims directed to ~~sub-~~ combinations to be proper, the Examiner must show that one of the combinations has utility other than in the disclosed combination.

The Examiner has made no attempt to distinguish the combinations as disclosed and required in MPEP 806.05(d), rather the Examiner points to differences in claimed scope.

There is but one invention disclosed and that invention is shown in Figures 1-6. Claims 10 and 13-17 are directed to that single invention each calling for a rear view mirror assembly having a holding tube or arm, a framing, and a clamping part configured to attach or engage the tube or arm and means to hold a mirror element. These claimed structures are all shown in drawings as a single unit. The specification is directed to a single article, i.e. a rear view mirror assembly.

Reference is made to application Serial No. 09/800,114 of which the instant application is a division. Reference is made to Group II of the restriction requirement of 10/22/2002 as set forth therein.

Group II is stated to be drawn to a holding component for a mirror element, properly classified in class 359, subclass 871.

Claims 10 and 13-17 are directed to the mirror element and holding component

above indicated as forming a single invention entity.

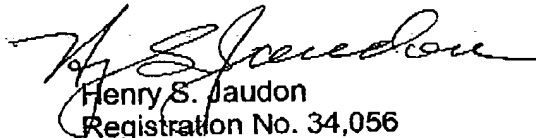
Finally, all presented claims are classified in class 359, subclass 871. No hardship is placed on the PTO to examine all claims at once due to the sameness of the search area.

For these reasons, it is believed that the restriction between claim 10 and claims 13-17 is improper and should be withdrawn.

The restriction requirement is again traversed as improper for the above stated reasons.

The rejection of claim 10 is believed to be overcome and allowance thereof is respectfully requested.

Respectfully submitted,



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